

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**BRADELY COTTRELL, on behalf of)
the ESTATE OF BERNARD DALE)
COTTRELL,)**

Plaintiff,)

v.)

Civil Action No. 2:18-cv-01281

**NATHAN SCOTT STEPP,)
Individually as a member of the)
West Virginia State Police,)
ZACH W. HARTLEY,)
Individually as a member of the)
West Virginia State,)
OKEY S. STARSICK,)
Individually as a member of the)
West Virginia State Police,)
ROBERT B. HICKMAN,)
Individually as a member of the)
Roane County Sheriff's Department,)
ROANE COUNTY SHERIFF'S)
DEPARTMENT, and)
WEST VIRGINIA STATE POLICE,)**

Defendants.)

COMPLAINT

COMES NOW, Plaintiff Bradley Cottrell, on behalf of the Estate of Bernard Dale Cottrell,
by counsel, and for his Complaint states and alleges as follows:

JURY DEMAND

1. The Plaintiff hereby demands a trial by jury.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and 1343
and under this Court's authority to decide pendent state law claims.

3. Plaintiff files this Complaint, pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights. Specifically, Plaintiff alleges that his rights under the Fourth Amendment to the United States Constitution and under Article III, Sections 6 and 10 of the West Virginia Constitution were violated by Defendants when they used excessive and deadly force during a shooting that took place on September 6, 2016 in Roane County, West Virginia, killing Bernard Dale Cottrell.

4. Venue is proper because several of the above-named Defendants reside within the Southern District of West Virginia, Charleston Division, and the incident giving rise to this Complaint occurred in the Southern District of West Virginia, Charleston Division.

PARTIES

5. Plaintiff Bradley Cottrell (hereinafter “Plaintiff”) was at all times relevant hereto a resident of Wood County, West Virginia.

6. Plaintiff was duly appointed the Administrator of the Estate of Bernard Dale Cottrell in the Circuit Court of Roane County, West Virginia on September 23, 2016.

7. Defendant Nathan Scott Stepp (hereinafter “Trooper Stepp”) was at all times relevant hereto a trooper with the West Virginia State Police and was at all times relevant hereto acting under color of law and within the scope of his employment. Trooper Stepp, who upon information and belief resides in Roane County, West Virginia, is sued only in his individual capacity.

8. Defendant Zach W. Hartley (hereinafter “Trooper Hartley”) was at all times relevant hereto a trooper with the West Virginia State Police and was at all times relevant hereto acting under color of law and within the scope of his employment. Trooper Hartley, who upon

information and belief resides in Jackson County, West Virginia, is sued only in his individual capacity.

9. Defendant Okey S. Starwick (hereinafter “First Sargent Starwick”) was at all relevant times hereto a member of the West Virginia State Police and was at all times relevant hereto acting under color of law and within the scope of his employment. Upon information and belief, First Sargent Starwick was a supervisor of Trooper Stepp and/or Trooper Hartley. First Sargent Starwick, who upon information and belief, resides in Gilmer County, West Virginia, is sued only in his individual capacity.

10. Upon information and belief, Trooper Stepp and/or Trooper Hartley have been involved in numerous other incidents of excessive force, assault, physical violence, and other unlawful acts and abusive practices while acting under color of law and within the scope of their employment as a West Virginia State Police officers.

11. Upon information and belief, Trooper Stepp is currently on “military leave” from the West Virginia State Police, which, upon information and belief, is what the West Virginia State Police does to shield and/or hide Troopers who are being investigated, sued, and/or prosecuted for committing unlawful acts while acting under color of law and within the scope of their employment as West Virginia State Troopers.

12. First Sargent Starwick, as the supervisor of Trooper Stepp, knew or should have known about these numerous other incidents of excessive force and violence perpetrated by, or participated in, by Trooper Stepp. However, First Sargent Starwick turned a blind eye to the unlawful conduct of Trooper Stepp, thereby allowing him to continue to repeatedly use excessive force and violence toward other individuals, including Bernard Dale Cottrell.

13. Defendant West Virginia State Police (hereinafter “WVSP”) is a law enforcement agency established pursuant to the laws of the State of West Virginia, with jurisdiction to uphold and to enforce the laws of West Virginia throughout the State of West Virginia. WVSP is the main law enforcement agency in the State of West Virginia, with its headquarters in Kanawha County, West Virginia, and with detachments throughout the State, including Roane County.

14. Defendant Robert B. Hickman (hereinafter “Deputy Hickman”) was at all times relevant hereto a Deputy with the Roane County Sherriff’s Department and was at all times relevant hereto acting under color of law and within the scope of his employment. Deputy Hickman, who upon information and belief, resides in Roane County, West Virginia, is sued in his individual capacity.

15. Defendant Roane County Sheriff’s Department (hereinafter “Roane Sheriff’s Department”) is a law enforcement agency established pursuant to the laws of the State of West Virginia, with jurisdiction to uphold and to enforce the laws of West Virginia throughout the County of Roane, West Virginia.

16. This Complaint was filed after Plaintiff complied with W. Va. Code § 55-17-3 by sending a certified letter to Attorney General Patrick Morrissey and West Virginia State Police Superintendent, Colonel J. L. Cahill on September 4, 2018.

17. Pursuant to W. Va. Code § 55-17-3, a copy of this Complaint was mailed to Attorney General Patrick Morrissey after it was filed.

18. Defendants are sued up to the limits of the insurance policy which provides liability coverage for their actions and omissions.

FACTS

19. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1 through 18 as though fully set forth herein.

20. At the time of his death, Bernard Dale Cottrell (hereinafter “Mr. Cottrell”) was a sixty-five (65) year old mentally ill man.

21. On September 6, 2016, after leaving the home of the Plaintiff in Wood County, Mr. Cottrell was in a vehicle traveling down Route 14 in Roane County, West Virginia.

22. At approximately 3:20 p.m., a Roane County Sherriff’s Department cruiser, containing Deputy Hickman and Trooper Hartley, and a West Virginia State Police cruiser, driven by Trooper Stepp, pursued Mr. Cottrell (at a high rate of speed, up to 80 mph). These officers were pursuing Mr. Cottrell because earlier that day, Mr. Cottrell’s family reported that he was unwell, that they were pursuing a mental hygiene, and that Mr. Cottrell had brandished a shotgun (but never fired it).

23. Mr. Cottrell tried to evade pursuit, and while attempting a three-point turn to change direction near the intersection with Randolph Road, Trooper Stepp passed the cruiser driven by Deputy Hickman (which had slowed down) and bumped the front end of his cruiser to the front end of Mr. Cottrell’s vehicle to block him in.

24. After making contact with the front of Mr. Cottrell’s vehicle, Trooper Stepp immediately starting firing his weapon as he exited his vehicle.

25. Trooper Stepp gave Mr. Cottrell no warnings and no verbal commands before he opened fired.

26. Trooper Stepp did not determine whether Mr. Cottrell was armed before opening fire.

27. Trooper Stepp did not attempt to deescalate or complete a wellness check on Mr. Cottrell, despite knowledge that he may have been an emotionally disturbed person or experiencing a mental health crisis.

28. Trooper Stepp was in such a hurry to discharge his weapon, he fired it prematurely, hitting his own vehicle in the process.

29. According to an eye witness statement and the statement of Deputy Hickman, after Trooper Stepp finished firing numerous rounds at Mr. Cottrell, Trooper Stepp yelled out “gun,” indicating that Mr. Cottrell had a weapon.

30. After Trooper Stepp exited his vehicle and immediately started firing, Trooper Hartley and Deputy Hickman, in the Roane County Sherriff cruiser which had stopped behind Trooper Stepp’s vehicle, also exited their vehicle and opened fire on Mr. Cottrell.

31. According the West Virginia State Police Criminal Investigation Report, twenty-nine (29) shots were fired at Mr. Cottrell during this incident – seventeen (17) by Trooper Stepp, seven (7) by Deputy Hickman, and five (5) by Trooper Hartley.

32. According to the autopsy report, Mr. Cottrell died from eight (8) gunshot wounds; five (5) bullets were found in his body.

33. Mr. Cottrell never fired a weapon during this incident and forensics found no traces of gunshot residue on his hands or fingers.

34. Trooper Stepp claims that he saw Mr. Cottrell holding a pump action hunting shotgun in the front seat of his vehicle. However, in his statement to the West Virginia State Police, Trooper Stepp gave two conflicting and contradictory accounts of what transpired.

35. Trooper Stepp first claims that as his vehicle approached Mr. Cottrell’s vehicle head on (while Mr. Cottrell was attempting a 3-point turn), he saw Mr. Cottrell holding what he

“assumed” was shotgun in his “right hand,” while pointing the gun left. Trooper Stepp stated that “I assume he was going to pull it out the...driver side window as he drove by.”

36. Based on dash camera video footage, Mr. Cottrell’s front driver side window was rolled up before Trooper Stepp made contact with his vehicle and starting firing his weapon.

37. According to Deputy Hickman, Mr. Cottrell’s car was found in drive and the tires spinning after the shooting.

38. Later in his statement to the West Virginia State Police, Trooper Stepp contradicts himself by claiming that as he was exiting his vehicle, he saw Mr. Cottrell holding a shotgun with his *left hand* (right hand on the pump and left hand on the butt), while trying to point it out the *front windshield*.

39. Not only are Trooper Stepp’s accounts of what transpired during the shooting conflicting and inconsistent, they are also contradicted by other facts in this case.

40. Both of Trooper Stepp’s accounts – each claiming he saw Mr. Cottrell with a gun before he opened fire – are contradicted by statements by an eye witness and Deputy Hickman, who both state that Trooper Stepp did not call out “gun” until he had already exited his vehicle and opened fire.

41. Trooper Stepp’s second account – that he saw Mr. Cottrell with a gun after he exited his vehicle and *then* opened fire – is contradicted by the West Virginia State Police Criminal Investigation Report, which finds that Trooper Stepp “fired his weapon prematurely,” resulting in him firing a round into the front driver side fender of his own vehicle as he exited the vehicle.

42. After the shooting, even though Mr. Cottrell was seated in his vehicle dead after twenty-nine (29) rounds were fired at him, Trooper Stepp used his baton to break out the passenger side window, removed a shotgun, and placed it on the ground outside the car before any

photographs or video could be taken documenting where the weapon was inside the vehicle immediately following the shooting.

43. Upon information and belief, Trooper Stepp, Trooper Hartley, and Deputy Hickman discharged their weapons prematurely, without warning, and without reasonable justification, thereby killing Mr. Cottrell.

COUNT I – EXCESSIVE FORCE UNDER 42 U.S.C. §1983
(Trooper Stepp, Trooper Hartley, and Deputy Hickman)

44. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1 through 43 as though fully set forth herein.

45. Trooper Stepp, Trooper Hartley, and Deputy Hickman, while acting under color of law and within the scope of their employment, violated Mr. Cottrell's constitutional rights by using excessive and deadly force, as described hereinabove, during the shooting of Mr. Cottrell on September 6, 2016, resulting in his death.

46. At all material times, Trooper Stepp and Trooper Hartley were acting as West Virginia State Police Troopers.

47. At all material times, Deputy Hickman was acting as a Roane County Sheriff's Deputy.

48. The actions of Trooper Stepp, Trooper Hartley, and Deputy Hickman violated the constitutional rights guaranteed to Mr. Cottrell under the Fourth Amendment to the United States Constitution.

49. The deadly actions of Trooper Stepp, Trooper Hartley, and Deputy Hickman were not taken in good-faith, were objectively unreasonable, and were in violation of clearly established law.

50. At all material times, Trooper Stepp, Trooper Hartley, and Deputy Hickman did not witness Mr. Cottrell carrying, handling, or using any weapon.

51. At all material times, Trooper Stepp, Trooper Hartley, and Deputy Hickman did not have a reasonable fear of imminent bodily harm when they shot Mr. Cottrell nor a reasonable belief that any other person was in danger of imminent bodily danger from Mr. Cottrell.

52. Trooper Stepp, Trooper Hartley, and Deputy Hickman's deadly acts were unlawful and unjustified, as they used their weapons prematurely, without warning, and without reasonable justification, thereby killing Mr. Cottrell.

53. As a direct and proximate result of Trooper Stepp, Trooper Hartley, and Deputy Hickman's unreasonable, unconstitutional, and deadly actions, Mr. Cottrell suffered violations of his constitutional rights, conscious pain and suffered, and an untimely death. Plaintiff will seek to recover all damages permitted under the law, including but not limited to, all damages recoverable under the West Virginia wrongful death statute, W. Va. Code § 55-7-6.

54. In addition to these compensatory damages, Plaintiff will also seek to recover, under 42 U.S.C. § 1983, attorneys' fees and cost incurred during the course of this litigation.

55. The actions of Trooper Stepp, Trooper Hartley, and Deputy Hickman were reprehensible, willful and wanton, malicious, and in blatant and intentional disregard for the rights owed to Mr. Cottrell, thereby justifying an award of punitive damages, to the extent such damages are recoverable under the applicable insurance policy(s).

COUNT II – SUPERVISOR LIABILITY UNDER 42 U.S.C. § 1983
(First Sargent Starsick)

56. Plaintiff hereby incorporates by reference the allegations made in paragraphs 1 through 55 as though fully set forth herein.

57. First Sargent Starsick, a West Virginia State Police officer who supervised Trooper Stepp and/or Trooper Hartley, had actual and/or constructive knowledge that his subordinates, including Trooper Stepp and/or Trooper Hartley, were engaged in repeated and pervasive acts of excessive force and violence, while acting under color of law and within their scope of employment as West Virginia State Troopers, and thereby posed an unreasonable risk of injury to citizens like Mr. Cottrell.

58. First Sargent Starsick's response to this knowledge of the unlawful, unreasonable, and unconstitutional acts of Trooper Stepp and/or Trooper Hartley was so inadequate as to show a deliberate indifference, or tacit authorization, of such abhorrent practices.

59. As a direct and proximate result of First Sargent Starsick's actions and inactions, Mr. Cottrell suffered violations of his constitutional rights, conscious pain and suffering, and an untimely death. Plaintiff will seek to recover all damages permitted under the law, including but not limited to, all damages recoverable under the West Virginia wrongful death statute, W. Va. Code § 55-7-6.

60. In addition to these compensatory damages, Plaintiff will also seek to recover, under 42 U.S.C. § 1983, attorneys' fees and cost incurred during the course of this litigation.

61. The actions of First Sargent Starsick were reprehensible, willful and wanton, malicious, and in blatant and intentional disregard for the rights owed to Mr. Cottrell, thereby justifying an award of punitive damages, to the extent such damages are recoverable under the applicable insurance policy(s).

COUNT III - 42 U.S.C. §1983 MONELL CLAIM
(West Virginia State Police)

62. Plaintiff hereby incorporates by reference the allegations made in paragraphs 1 through 61 as though fully set forth herein.

63. At all relevant times, the WVSP had in effect policies, practices, or customs that condoned and fostered the unconstitutional conduct of Trooper Stepp and Trooper Hartley.

64. The WVSP failed to properly train Trooper Stepp and Trooper Hartley.

65. The WVSP failed to properly supervise Trooper Stepp and Trooper Hartley.

66. As such, WVSP was deliberately indifferent and reckless with respect to the potential violation of constitutional rights.

67. WVSP's policies, practices, customs, and/or failures were the moving force behind the actions of Trooper Stepp and Trooper Hartley, resulting in Mr. Cottrell's death.

68. The failure to train constituted an official policy of the WVSP.

69. The failure to supervise constituted an official policy of the WVSP.

70. Completing a wellness check or a mental hygiene check for an individual who is emotionally disturbed or having a mental health crisis is a usual and recurring situation with which the agents of the WVSP encounter on a regular basis.

71. Apprehending an individual who is emotionally disturbed or having a mental health crisis against whom a wellness check and/or mental hygiene has been issued is a usual and recurring situation which agents of the WVSP encounter on a regular basis.

72. Effectuating an arrest is a usual and recurring situation the agents of the WVSP encounter on a regular basis.

73. As a direct and proximate result of the acts and omissions of the WVSP, Mr. Cottrell suffered violations of his constitutional rights, conscious pain and suffering, and an untimely death. Plaintiff will seek to recover all damages permitted under the law, including but not limited to, all damages recoverable under the West Virginia wrongful death statute, W. Va. Code § 55-7-6.

COUNT IV – STATE CONSTITUTIONAL VIOLATIONS
(Trooper Stepp, Trooper Hartley, and Deputy Hickman)

74. Plaintiff hereby incorporates by reference the allegations made in paragraphs 1 through 73 as though fully set forth herein.

75. Trooper Stepp, Trooper Hartley, and Deputy Hickman, while acting under color of law and within the scope of their employment, violated Mr. Cottrell's constitutional rights by using excessive and deadly force, as described hereinabove, during the shooting of Mr. Cottrell on September 6, 2016, resulting in his death.

76. Count IV alleges a constitutional tort action under the West Virginia Constitution, pursuant to the common law of West Virginia, and specifically is not filed pursuant to 42 U.S.C. § 1983 or any other related federal statute.

77. The actions of Trooper Stepp, Trooper Hartley, and Deputy Hickman violated the constitutional rights guaranteed to Mr. Cottrell under Article III, Sections 6 and 10 of the West Virginia Constitution.

78. The actions of Trooper Stepp, Trooper Hartley, and Deputy Hickman also violated the constitutional rights guaranteed to Mr. Cottrell under the Fourth Amendment to the United States Constitution.

79. Pursuant to W. Va. Code § 29-12A-18, by alleging violations of the West Virginia and United States Constitution, the Governmental Tort Claims and Insurance Reform Act is inapplicable to the claims against Deputy Hickman.

80. The deadly actions of Trooper Stepp, Trooper Hartley, and Deputy Hickman were not taken in good-faith, were objectively unreasonable, and were in violation of clearly established law.

81. Trooper Stepp, Trooper Hartley, and Deputy Hickman's deadly acts were unlawful and unjustified, as they used their weapons prematurely, without warning, and without reasonable justification, thereby killing Mr. Cottrell.

82. As a direct and proximate result of Trooper Stepp, Trooper Hartley, and Deputy Hickman's unreasonable, unconstitutional, and deadly actions, Mr. Cottrell suffered violations of his constitutional rights, conscious pain and suffering, and an untimely death. Plaintiff will seek to recover all damages permitted under the law, including but not limited to, all damages recoverable under the West Virginia wrongful death statute, W. Va. Code § 55-7-6.

83. The actions of Trooper Stepp, Trooper Hartley, and Deputy Hickman were reprehensible, willful and wanton, malicious, and in blatant and intentional disregard for the rights owed to Plaintiff, thereby justifying an award of punitive damages, to the extent such damages are recoverable under the applicable insurance policy(s).

COUNT V – BATTERY
(Trooper Stepp, Trooper Hartley, and Deputy Hickman)

84. Plaintiff hereby incorporates by reference the allegations made in paragraphs 1 through 83 as though fully set forth herein.

85. Trooper Stepp, Trooper Hartley, and Deputy Hickman committed battery upon Mr. Cottrell, proximately causing his death.

86. As a direct and proximate result of Trooper Stepp, Trooper Hartley, and Deputy Hickman's unreasonable, unconstitutional, and deadly shooting, Mr. Cottrell suffered conscious pain and suffering and an untimely death. Plaintiff will seek to recover all damages permitted under the law, including but not limited to, all damages recoverable under the West Virginia wrongful death statute, W. Va. Code § 55-7-6.

87. The actions of Trooper Stepp, Trooper Hartley, and Deputy Hickman were reprehensible, willful and wanton, malicious, and in blatant and intentional disregard for the rights owed to Mr. Cottrell, thereby justifying an award of punitive damages, to the extent such damages are recoverable under the applicable insurance policy(s).

COUNT VI – NEGLIGENCE
(Trooper Stepp, Trooper Hartley, and Deputy Hickman)

88. Plaintiff hereby incorporates by reference the allegations made in paragraphs 1 through 87 as though fully set forth herein.

89. At all times relevant hereto, Trooper Stepp, Trooper Hartley, and Deputy Hickman owed Mr. Cottrell a duty of care.

90. Trooper Stepp, Trooper Hartley, and Deputy Hickman, while acting within the scope of their employment, breached their duty of care to Mr. Cottrell.

91. As a direct and proximate result of Trooper Stepp, Trooper Hartley, and Deputy Hickman's breach of their duty of care, Mr. Cottrell was shot and killed.

92. As a direct and proximate result of Trooper Stepp, Trooper Hartley, and Deputy Hickman's unreasonable, unconstitutional, and deadly shooting, Mr. Cottrell suffered conscious pain and suffering and an untimely death. Plaintiff will seek to recover all damages permitted under the law, including but not limited to, all damages recoverable under the West Virginia wrongful death statute, W. Va. Code § 55-7-6.

93. The actions of Trooper Stepp, Trooper Hartley, and Deputy Hickman were reprehensible, willful and wanton, malicious, and in blatant and intentional disregard for the rights owed to Mr. Cottrell, thereby justifying an award of punitive damages, to the extent such damages are recoverable under the applicable insurance policy(s).

COUNT VII – 42 U.S.C. §1983 MONELL CLAIM
(Roane Sheriff's Department)

94. Plaintiff hereby incorporates by reference the allegations made in paragraphs 1 through 93 as though fully set forth herein.

95. At all times relevant hereto, the Roane Sherriff's Department had in effect policies, practices, or customs that condoned and fostered the unconstitutional conduct of Deputy Hickman.

96. The Roane Sherriff's Department failed to properly train Deputy Hickman.

97. The Roane Sherriff's Department failed to properly supervise Deputy Hickman.

98. As such, the Roane Sherriff's Department was deliberately indifferent and reckless with respect to the potential violation of constitutional rights.

99. The Roane Sherriff's Department's policies, practices, customs, and/or failures were the moving force behind the actions of Deputy Hickman, resulting in Mr. Cottrell's death.

100. The failure to train constituted an official policy of the Roane Sherriff's Department.

101. The failure to supervise constituted an official policy of the Roane Sherriff's Department.

102. Completing a wellness check or a mental hygiene check for an individual who is emotionally disturbed or having a mental health crisis is a usual and recurring situation with which the agents of the Roane Sherriff's Department encounter on a regular basis.

103. Apprehending an individual who is emotionally disturbed or having a mental health crisis against whom a wellness check and/or mental hygiene has been issued is a usual and recurring situation which agents of the Roane County Sherriff's Department encounter on a regular basis.

104. Effectuating an arrest is a usual and recurring situation the agents of the Roane County Sheriff's Department encounter on a regular basis.

105. As a direct and proximate result of acts and omissions of the Roane Sheriff's Department, Mr. Cottrell suffered violations of his constitutional rights, conscious pain and suffering, and an untimely death. Plaintiff will seek to recover all damages permitted under the law, including but not limited to, all damages recoverable under the West Virginia wrongful death statute, W. Va. Code § 55-7-6.

WHEREFORE, Plaintiff demands judgment in his favor against Defendants in an amount to be proven at trial, together with pre-judgment and post-judgment interest; for all damages recoverable under law; for punitive damages; for his attorney's fees, attorneys' fees under 42 U.S.C. § 1988, expenses, and costs of litigation; and for such other and further relief this Honorable Court deems just and proper.

PLAINTIFF DEMANDS A TRIAL BY JURY.

**BRADLEY COTTRELL, on behalf of the
ESTATE OF BERNARD DALE
COTTRELL**

By Counsel

/s/ Russell A. Williams
WV State Bar No. 12710
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Bradley Cottrell, on behalf of the Estate of Bernard Dale Cottrell

(b) County of Residence of First Listed Plaintiff Wood

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Eric J. Buckner and Russell A. Williams; Katz, Kantor, Stonestreet & Buckner, PLLC., 112 Capitol Street, Suite 200, Charleston, WV 25301; 304-431-4050

DEFENDANTS

Nathan Scott Stepp, Individually as a member of the West Virginia State Police, et al.

County of Residence of First Listed Defendant Roane

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. § 1983

Brief description of cause:

violations of constitutional rights when Defendant used excessive force during the detainment of Plaintiff

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/23/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/Russell A. Williams

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.